IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 132 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA
HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME-TAX - Applicant(s)

Versus

ROHITBHAI CHINUBHAI - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 29/09/2005

ORAL JUDGMENT

(Per : HONOURABLE MS.JUSTICE H.N.DEVANI)

1.The Income Tax Appellate Tribunal, Ahmedabad Bench “A”

has referred the following question under Section 256(1) of the Income Tax Act, 1961 (the Act) at the instance of the Commissioner of Income Tax.

> “Whether the Appellate Tribunal is right in law and on facts in deleting the addition of Rs.69,260/- being remuneration received by the wife of the assessee from Rajiv Traders Pvt. Ltd. in which the assessee had substantial interest, invoking the provisions of section 64 of the I.T. Act?”

2. The assessment year is 1987-88 and the relevant accounting period is the year ended on 31st March 1986.

3. As can be seen from the order dated 24th September, 1992 of the Tribunal, the Tribunal has relied upon its earlier decisions in the assessee's own case for assessment years 1977-78, 1984-85 and 1985-86.

4. Heard Mrs.M.M.Bhatt, learned standing counsel for the Revenue. Though served, there is no appearance on behalf of the respondent assessee.

5. Mrs.M.M.Bhatt has fairly pointed out that the issue in

question in the present case stands concluded in favour of the assessee by a decision of this Court in the assessee's own case in Income Tax Reference No.126 of 1987, dated 26th December, 2000, wherein the Court had followed the decision of this Court in the case of Ashaben Rohitbhai and others v. C.I.T., 237 ITR 561 (Guj).

6. In the circumstances, it is not necessary to set out the facts and contentions in detail. In light of the decision in Income Tax Reference No.126 of 1987, the question referred to this Court is answered in the affirmative i.e. in favour of the assessee and against the revenue.

7. The Reference stands disposed of accordingly. There shall be no order as to costs.

[D.A.MEHTA, J.]

[HARSHA DEVANI, J.]

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